

Expanding Housing Options in Neighbourhoods - Garden Suites Monitoring Program - Update

Date: February 12, 2024

To: Planning and Housing Committee

From: Interim Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

On February 2, 2022, City Council approved Official Plan Amendment 554 (OPA 554), related Site and Area Specific Policy 670 (SASP 670) and Zoning By-law Amendment 101-2022 to permit garden suites on properties in most residential zones across the City. The amendments were appealed to the Ontario Land Tribunal (OLT), although the Tribunal dismissed the appeals after determining that it did not have jurisdiction to hear the appeals.

The amendments adopted by Council to permit garden suites are rooted in the principles to create complete communities and provide a full range of housing in terms of form, tenure, and affordability for residents across the City in a form that makes efficient use of land. A "garden suite" is an additional self-contained living accommodation, usually located in the rear yard, but not on a public lane, and is separate or detached from the main house on the lot. Garden suites are generally smaller than the main house on the lot and are intended to function as rental housing as well as accommodation for a variety of types of household configurations and people in different stages of life. The Garden Suites Initiative is part of City Planning's Expanding Housing Options in Neighbourhoods (EHON) work program.

Along with approving the by-law and policy changes to permit garden suites across the City, City Council directed City staff to monitor the implementation of garden suites and report on a range of matters to Planning and Housing Committee following the earlier of two years following the date the Official Plan and Zoning By-law amendments came into full force and effect or following the issuance of the 200th building permit for the construction of new garden suites. Building permit application numbers indicate a slower uptake in garden suite applications than laneway suites, with only 97 issued at the time of this report. As such, City Planning is recommending that the monitoring period be extended to ensure enough data is available in order to recommend any necessary policy and zoning changes necessary to facilitate the construction of garden suites. This report summarizes the planned monitoring program and presents preliminary findings following the analysis of 126 minor variance applications that propose a garden suite.

RECOMMENDATIONS

The Interim Chief Planner and Executive Director, City Planning recommends that Planning and Housing Committee receive the report for information.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT

The City of Toronto recognizes that housing is essential to the inherent dignity and wellbeing of individuals and to building sustainable and inclusive communities. Access to safe, good quality, and affordable housing is an important determinant of physical and mental health, and a fundamental goal of the City's Housing TO 2020-2030 Action Plan. Adequate and affordable housing is also the cornerstone of inclusive neighbourhoods, supports the environment, and improves the socio-economic status of individuals, families, and communities as a whole. The Toronto Seniors Strategy identifies the need to create housing to facilitate aging in place across the city as part of the Housing TO Action Plan.

As Toronto looks to rebuild and recover after COVID-19, the EHON initiative can directly advance recommendations laid out in the "Towards Recovery and Building a Renewed Toronto" report. Specifically, recommendation 68 of the report calls on the City to apply the principle of "build back better" to land use planning and to improve the City's overall built form by prioritizing gentle density that places greater emphasis on a mix of building types and uses – including low-rise residential, retail and services – and that supports transit use.

Expanding Housing Options in Neighbourhoods is an important step towards increasing and accelerating the creation of a diverse range and mix of housing options, including additional units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.

CLIMATE IMPACT

On October 2, 2019, City Council voted unanimously to declare a climate emergency and accelerate efforts to mitigate and adapt to climate change. The TransformTO Net Zero Strategy (2021) provides a comprehensive approach to achieving Toronto's goal of net zero greenhouse gas (GHG) emissions by 2040. The report sets out the need for

bold action to transform the City's urban systems - buildings, energy, transportation and waste - to meet the 2040 target.

Garden suites can help reduce GHG emissions through the efficient use of land and resources. Density within the built-up area enables low carbon transportation choices, such as walking, cycling, and public transit. Housing built in Toronto also reduces sprawl and reduces transportation-driven GHG emissions regionally. Density enables the use of existing infrastructure, which avoids carbon-intensive infrastructure built elsewhere. Smaller buildings such as garden suites and units within multiplex buildings, such as multiplex housing and low-rise apartments, can more easily achieve net zero operational emissions, and low carbon materials are readily available at this scale. These buildings are also more easily deconstructed and much of the existing material can be salvaged and reused. City Planning will continue to consider missing middle housing approaches as part of the Expanding Housing Options in Neighbourhoods work program through a climate impact lens, specifically working towards more efficient land use and mitigating impacts on the City's soft landscaping and water permeable areas and tree canopy in support of climate adaptation.

DECISION HISTORY

On December 8, 2020, Planning and Housing Committee endorsed the Expanding Housing Options in Neighbourhoods – Garden Suites Review Report and requested City Planning prepare recommendations to permit garden suites:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH19.4>

On June 28, 2021, Planning and Housing Committee endorsed the Expanding Housing Options in Neighbourhoods – Garden Suites Proposals Report and requested City Planning use the draft regulations as the basis for further community and stakeholder consultation and report to bring a final report detailing Official Plan and Zoning By-law amendments to permit garden suites to Planning and Housing Committee:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.15>

On February 2, 2022, City Council adopted Official Plan Amendment 554 and Zoning By-law 101-2022 which amended the Official Plan and Zoning By-law 569-2013 to permit garden suites within *Neighbourhoods* across the City of Toronto. City Council also directed City Planning to monitor the implementation of Official Plan Amendment 554 and Zoning By-law 101-2022, and report to Planning and Housing Committee following the earlier of two years following the date of the Official Plan and Zoning By-law amendments come into full force and effect, or following the issuance of the 200th building permit for the construction of new garden suites:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH30.2>

Official Plan Amendment 554 and Zoning By-law Amendment 101-2022 were appealed to the OLT shortly after Council's adoption. On July 4, 2022 the Tribunal dismissed the appeals, citing its lack of jurisdiction to hear or rule on the appeals, and ordered that the Official Plan and Zoning By-law amendments are in-force and effect:

<https://www.toronto.ca/wp-content/uploads/2022/07/9860-cityplanning-garden-suites-olt-decision.pdf>

On June 26 2018, City Council adopted a planning framework which allows for laneway suites across the City. Similar to garden suites, laneway suites are considered a self-contained residential unit that are secondary to a primary dwelling, however laneway suites are located on lots adjacent to a public laneway. While both types of suites share similarities, the zoning permissions/requirements, emergency access, and other considerations vary. Along with approving By-law and Policy changes to allow the construction of laneway suites, City Council directed City staff monitor the implementation of laneway suites and directed City Planning to report on the monitoring period within the earlier of 2 years or the issuance of the 100th laneway suite building permit. Staff completed the laneway suite monitoring and reported to City Council on December 17, 2021: <https://www.toronto.ca/legdocs/mmis/2021/ph/bgrd/backgroundfile-173157.pdf>

This report addresses garden suites and does not report further on laneway suites.

GARDEN SUITE MONITORING PROGRAM

Garden Suite Permissions

OPA 554 and Zoning By-law 101-2022 permit garden suites across the City in the rear yards of residential properties designated as *Neighbourhoods* that are not next to a public laneway. OPA 554 stipulates that the development of garden suites will:

- ensure direct and safe access by meeting fire and emergency service requirements;
- limit privacy and overlook issues on adjacent properties;
- maintain the majority of the rear yard as open space and maximize soft landscaping that is supportive of tree planting;
- ensure the location, massing, and design of a garden suite does not result in the injury or removal of a healthy tree;
- encourage accessible design features;
- encourage sustainable building technologies;
- will ensure that the interior floor area of the garden suite is less than the gross floor area of the residential building on the lot;
- ensure that stormwater management is maintained on site; and
- encourage expansion of the urban tree canopy through the planting of a new tree on a lot with a garden suite.

SASP 670 provides additional policy direction and states that an increase to the maximum permitted footprint of a garden suite may be permitted through a minor variance application to the Committee of Adjustment provided that it maintains the development criteria listed above and meets other policy objectives, including:

- maintaining privacy of the adjacent properties;
- maintaining and maximizing soft landscaping and open space in the rear yard,
- preserving existing trees, and
- limiting the interior floor area of the garden suite to be less than the gross floor area of the residential building on the lot.

SASP 670 also discourages severing a lot containing a garden suite, resulting in a principal dwelling and garden suite being on two separate lots.

Zoning By-law 101-2022 permits garden suites in the Residential, Residential Detached, Residential Semi-Detached, Residential Townhouse, and Residential Multiple zones but must comply with specific use regulations. The zoning requirements/permissions for garden suites include, but are not limited to:

- **Number of units:** a single garden suite is permitted on a lot;
- **Basements:** basements are permitted in garden suites;
- **Footprint and Lot Coverage:** the maximum footprint of a garden suite is the smaller of 40% of the rear yard area and 60 square metres;
- **Floor Area:** the interior floor area must be less than the gross floor area of the main residential building on the lot;
- **Height and Separation Distance:** a garden suite that is located a minimum of 5 metres from the main residential building may be built to a maximum height of 4 metres and a garden suite that is located a minimum of 7.5 metres from the main residential building may be built to a maximum height of 6 metres. For an existing ancillary building (garage or shed), if the existing separation distance between the principal residential building and the existing building is less than the required minimum separation, it is permitted to remain;
- **Rear Yard Landscaping:** lots with a frontage greater than 6 metres, at least 50% of the rear yard area must be soft landscaping and lots with a frontage of 6 metres or less, at least 25% of the rear yard area must be soft landscaping; and
- **Parking:** no parking spaces for cars are required to be provided for a garden suite and a minimum of two bicycle parking spaces are required for a garden suite.

A further summary of the zoning requirements/permissions, including the rear and side yard setback requirements and angular plane requirements are summarized in the Garden Suite Summary of Rules and Regulations at the following link:

<https://www.toronto.ca/wp-content/uploads/2022/02/9320-cityplanning-garden-suites-summary-of-rules-Feb2022.pdf>.

In addition to the Official Plan and zoning requirements for garden suites, a garden suite must comply with the relevant Ontario Building Code regulations and other applicable laws in order for a building permit to be issued. Providing appropriate access for emergency services, minimum building area and room sizes, as well as minimum required floor heights, are components of the Ontario Building Code review. To encourage Garden Suites without compromising public safety, Toronto Building is working with a third-party Building Code Consultant to evaluate Ontario Building Code and Ontario Fire Code requirements that apply to the Garden Suite built form. This work will identify any Code challenges as distinct from those applying to Laneway Suites, and identify any potential generic alternative solutions. For designers and property owners, this evaluation is intended to provide greater clarity and certainty early in the design stage, and expedite the building permit application and review process.

Monitoring Program & Council Direction

Through the Garden Suites Final Report, staff identified that the garden suites monitoring program will review the planning and building process; the overall regulatory framework; and impacts to trees, soft landscaping and permeable surfaces. The monitoring of proposed and constructed garden suites will include an assessment of details such as their location, lot sizes, unit size, number of bedrooms, tree protection, soft landscaping, permeable surfaces, and garden suite design (including height and massing).

In addition to the monitoring program outlined in the Garden Suites Final Report, staff were directed to monitor the implementation of OPA 554 and Zoning By-law 101-2022 following the earlier of two years after the date these instruments come into full force and effect (February 3, 2022) or after the issuance of the 200th building permit for the construction of new garden suites. Staff are reviewing the OPA and Zoning By-law amendment following two years since the adoption of the policy and regulatory frameworks.

As part of the monitoring program, Council directed that staff undertake:

- consultation with resident associations, grassroots neighbourhood groups, and other stakeholders;
- in consultation with Parks, Forestry and Recreation, monitor impacts to the City's tree canopy and growing space as a result of garden suite construction and any other work being undertaken by City staff to understand the broader implications of infill development on the City's tree canopy;
- monitoring of minor variance and building permit applications for garden suites received within the Ward boundaries of Beaches-East York; and
- monitoring of minor variance applications for garden suites to facilitate accessible garden suite designs.

Staff have begun to track and assess minor variance and building permit applications in order to determine whether revisions to Official Plan policy and/or zoning are required to improve implementation. A summary of the preliminary findings are summarized in the following sections of this report. Upon conclusion of the monitoring program, the City will prepare a report to Planning and Housing Committee to discuss the conclusions of the monitoring and to recommend further policy, zoning, or other changes, should they be deemed necessary to improve the implementation of garden suites.

Building Permit Applications

To inform this report, City Planning staff reviewed building permit applications between January 1, 2022 and October 31, 2023. This review included permit applications at various stages of the review process and was intended to provide an understanding of trends among various aspects of garden suite construction.

The combined total number of building permit applications received for the year 2022 and up to November 1, 2023 is 244 and of these applications, a total of 114 are currently under review. The total number of building permits issued for garden suites is

97 and the number of building permits under construction is 57. A total of six construction complete notices for garden suites have been issued.

Building Permit Data for Applications Proposing a Garden Suite

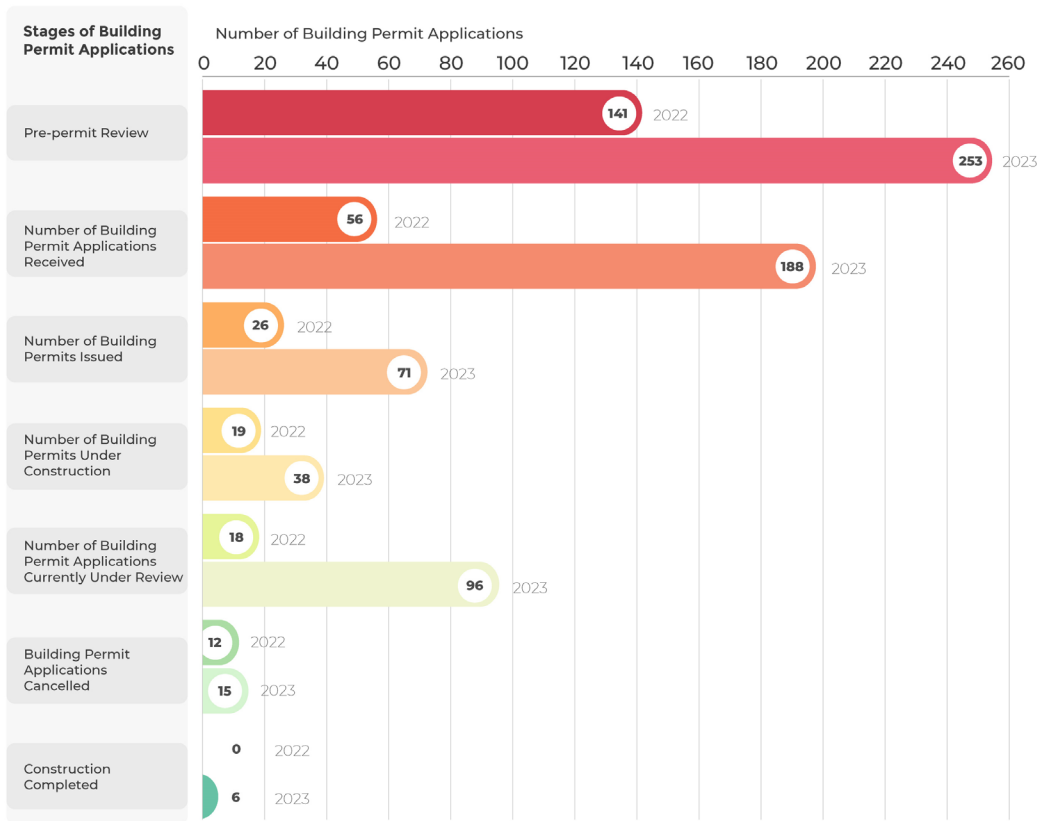
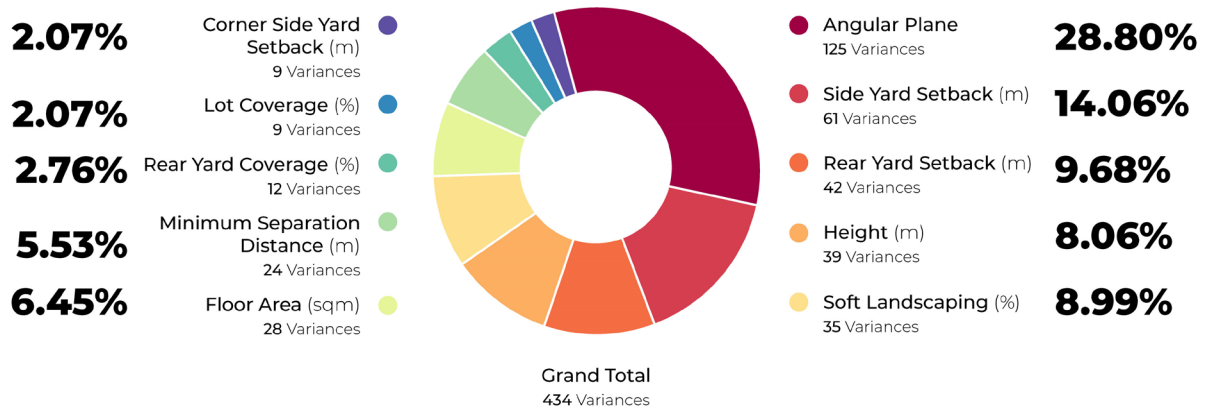


Figure 1: This graph outlines the stages of the building permit process and the number of applications proposing a garden suite submitted in 2022 and 2023.

As shown above in Figure 1, a preliminary assessment of the data indicates an upwards trend of building permit applications since permissions for garden suites were approved, with 141 applications in 2022 and 253 applications in 2023. Similar trends are observed with those applications that are under review, permits issued, under construction, and completed. An assessment of the building permit application process will form part of the monitoring program to determine whether any procedural changes are necessary to improve the permitting process.

10 Most Requested Variances by Count and Proportion of Total Variances



Minor Variance Applications

In order to determine whether further policy and/or zoning changes are required to improve the implementation of garden suites, staff have begun to track and analyze minor variance applications across the City where a garden suite is proposed. Between May 28, 2021 and October 31, 2023, 126 minor variance applications proposing a garden suite have been submitted. The tracking of minor variance applications includes an analysis of:

- application status;
- types of variances (e.g., angular plane, setbacks, height, floor area, soft landscaping, minimum separation distance, etc.);
- degree of change from by-law permission or requirement;
- lot size;
- size of garden suite (gross floor area);
- number of bedrooms; and
- Committee of Adjustment and Toronto Local Appeal Body (TLAB) decision.

A preliminary analysis of the 126 minor variance applications found that 28.8 percent of the variances requested were to vary the angular plane requirements. Angular planes are measured from the required setback to the required height at a 45-degree angle. The intent of this provision is to limit shadow and privacy impacts onto neighbouring properties. These variances indicate that a significant number of proposed garden suites have not met this requirement. The variances least requested are for lot coverage and corner yard side yard setback, both representing 2.07 percent of the total variances requested. The intent of the lot coverage provision is to prevent overdevelopment of a lot and to limit impacts of stormwater runoff. The intent of the side yard setback provision is to prevent adverse impacts onto neighbouring properties and to improve safety and accessibility, while also allowing adequate space for general maintenance of the building. Figure 2 below illustrates these findings.

Figure 2: An analysis of 126 minor variance applications found the ten variances listed above to be the most frequently requested.

Staff have also evaluated variances to determine the degree of change (or variation) from the zoning by-law requirements. Based on the preliminary analysis of minor variance applications, the data indicates that a large number of requested variances are within 25 percent of variation from the zoning by-law requirements. For example, approximately 31 percent of height variances are within 25 percent variation from the zoning by-law requirement of 5.0 or 6.0 metres. The below graphic illustrates these findings.

Percent of Variances within a 25% Degree of Change from By-law Requirement

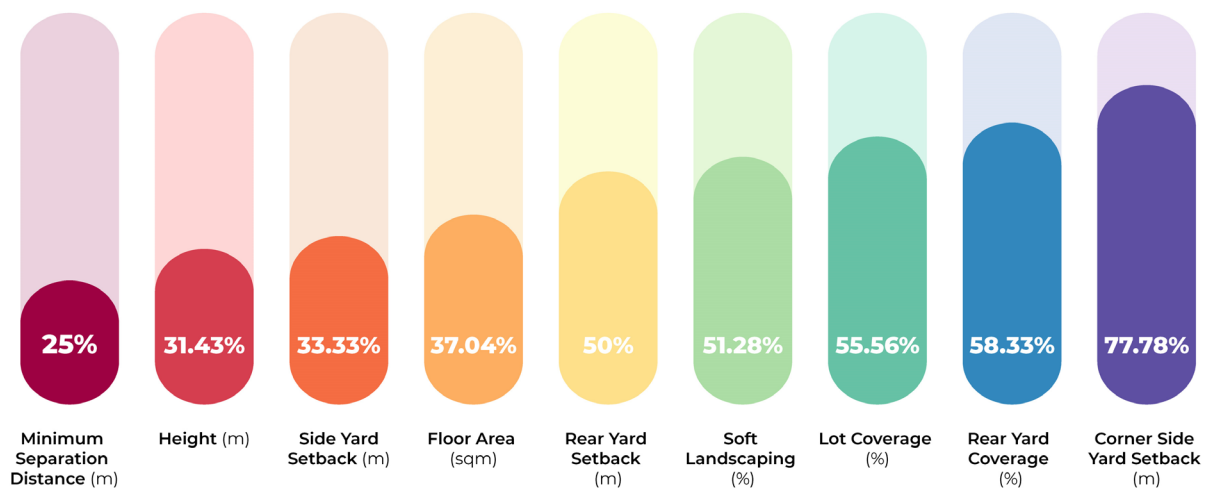


Figure 3: This graph illustrates the percentage of each requested variance that is within 25 percent of variation from the zoning by-law requirement.

Assessing the degree of change demonstrates the extent of variation between a proposal and the zoning by-law requirement. This analysis will inform whether the existing zoning requirements are too restrictive and whether minor adjustments to the zoning requirements are necessary to increase the number of as-of-right applications (meaning applications that comply with the zoning requirements without needing variances to the by-law).

Tree Permit Applications

In order to determine any impacts on the urban tree canopy, Staff tracked tree permit applications that have been submitted where a garden suite is proposed. Toronto Municipal Code Chapter 813 Article III (Private Tree Protection) regulates the injury, destruction and removal of all trees located on private property with a trunk diameter measuring 30 centimetres or greater, measured 1.4 metres above ground level. Toronto Municipal Code Chapter 658 (Ravine and Natural Feature Protection) regulates the injury, destruction and removal of all trees any size located within ravine regulated

areas of private property or parkland. Toronto Municipal Code Chapter 608 (Parks) regulates the injury, destruction and removal of all trees any size located within City owned or managed parkland. Staff are not able to track canopy impacts related to unpermitted or unregulated tree activities.

Between January 1, 2022 and October 31, 2023, 26 tree permit applications were submitted to Urban Forestry requesting the removal or injury of a regulated tree for a site proposing a garden suite as illustrated in Figure 4, below.

Tree Permit Data for Applications Proposing a Garden Suite

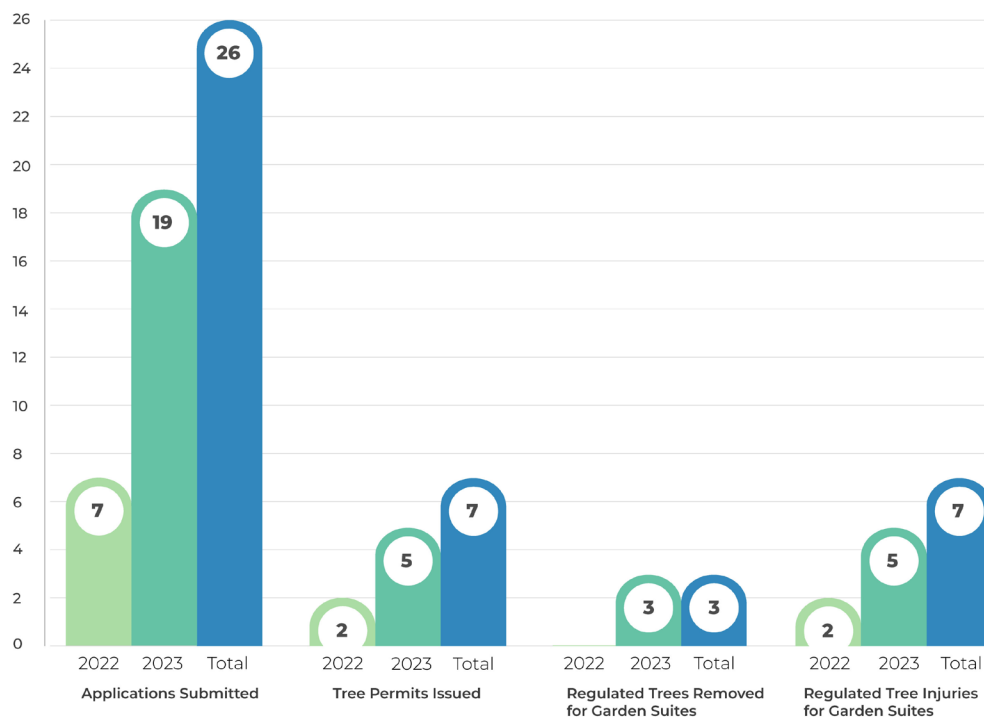


Figure 4: This graph outlines the outcome of the 26 tree permit applications submitted in 2022 and 2023 (until October 31, 2023) where a garden suite was proposed.

Of the 26 tree permit applications, a total of seven Urban Forestry permits were issued. The total number of permitted tree impacts totaled three tree removals and six tree injuries. None of the permitted removals were healthy trees.

A preliminary review of tree permit applications associated with proposals for garden suites have shown limited impacts to the urban tree canopy. As part of the monitoring program, tree permit application data will continue to be collected to assess whether any improvements are necessary to limit impacts on the City's urban tree canopy.

Garden Suite Inquiries

In addition to tracking various garden suite applications, staff are also tracking garden suite-related inquiries which will inform the monitoring program. These inquiries will be

used to improve garden suite resources, including the garden suite webpage, the summary of rules and regulations, and future how-to guides. A summary of the garden suite-related inquiries received to date include, but are not limited to:

- clarification of garden suite regulations (number of units permitted, permitted lot coverage, inclusion of basement gross floor area, etc.);
- pre-application consultation requests to review plans;
- questions related to the conversion of garages and other existing structures to garden suites;
- clarification in relation to the application process;
- questions related to the required emergency access and Ontario Building Code regulations;
- timeframe of permit issuance;
- whether severances are permitted for properties with a garden suite;
- where utilities and servicing should be connected to; and
- what to do if a property is zoned under a former by-law.

Next Steps & Request for Quotation

In support of the monitoring program, City Planning has issued a Request for Quotation (RFQ) to retain a qualified consultant to undertake a thorough review of garden suite applications. This work will include:

- reviewing the garden suites Official Plan and Zoning By-law amendments to assess the success of the garden suites initiative;
- analyzing specific attributes of approved and constructed garden suites;
- preparation of a consultation strategy that will support the consultation of a broad range of stakeholders;
- assist City staff to determine if any changes may be necessary to improve the relationship between garden suites and adjacent properties and to facilitate the construction of garden suites; and
- provide a final report which will be used to inform City staffs recommendations to City Council.

The results of the consultant's work is critical to the EHON work program and will further support the provision of additional rental housing options in the City's *Neighbourhoods*. It is anticipated the consultants scope of work will be completed by Q4 2024. Staff will report to Council with a final recommendation of any proposed by-law amendments by Q1 2025.

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